Medical Board of California The Enforcement Process

Complaint/Information Source:

- Public
- B&P Code mandated reports
- Licensee/Professional Group
- Governmental Group
- Anonymous/Miscellaneous

Central Complaint Unit:

Consumer Services Analyst (CSA) reviews the complaint to determine:

- If immediate investigation is needed. If yes, refers complaint to appropriate district office.
- If more information is needed, the CSA requests this from the complainant.
- Whether the complaint is within the Board's jurisdiction. If not, it is referred to the appropriate agency.
- Whether the complaint involves care and treatment provided by the physician. If so, medical records are obtained and a medical consultant reviews.
- Whether a minor violation of the Medical Practice Act has occurred (e.g., failure to provide patient records, misleading advertisement, dispensing violations, etc.). If so, the physician is then contacted and advised of the violation to bring him or her into compliance, or the matter is referred for a cite and fine.

Complaint may be mediated at this point if that is appropriate. If no apparent violation is found, the case may be closed.

District Office:

If it appears following initial review that a violation may have occurred, case is referred to a Board district office for investigation. Upon completion, the file may be:

- Closed, but retained for one year if a violation could not be confirmed.
- Closed, but retained for five years because the complaint is found to have some merit, but insufficient evidence is found to take action against the licensee.
- Referred to Attorney General's Health Quality Enforcement Section for determination whether to initiate disciplinary action.
- Referred for other disciplinary, non-disciplinary action, or criminal action.

Attorney General:

If he or she believes the case can pass the legal standard, a Deputy AG drafts formal charges (Accusation), and a hearing is scheduled. During pre-hearing conferences, a stipulated settlement (plea bargain) of the charges/penalties may be accepted by both sides; if this occurs, no hearing is needed. The Board may direct the AG to file a petition to compel the licensee to submit to a competency examination or a psychiatric examination in lieu of, or preceding the filing of, an Accusation.

Administrative Hearing:

If the licensee contests the charges, the case is heard by an Administrative Law Judge (ALJ), who then drafts a proposed decision. The proposed decision is reviewed by a panel of members of the Board's Division of Medical Quality, who have the option to:

- Adopt the decision as proposed:
- Reduce the penalty and adopt the decision; or,
- Increase the penalty and adopt the decision. In this instance, the panel members must read the entire record of the hearing prior to acting. The physician is given the opportunity to submit written and oral arguments.

Criminal Prosecution:

A completed investigation may be referred to a local district or city attorney for prosecution of suspected criminal violations

Citation & Fine Program:

Minor violations of the Medical Practice Act may result in administrative citation and fine rather than formal accusation and disciplinary action.

Diversion Program:

Physicians suffering from alcohol or other substance abuse, or from mental impairment, may be admitted to the Board's Diversion Program.

Appeal:

Division of Medical Quality

Physician may petition for reconsideration of a decision for 30 days after it is adopted. Thereafter, physician may petition for reinstatement of revoked license, reduction of terms of penalty, or termination of a period of probation. Various time periods apply before petitions can be filed with the Board.

Courts:

Final decision may be appealed to the Superior Court, the District Court of Appeal, and to the California Supreme Court.